

## REMARKS

Claim 14 has been canceled, so claims 1-13 are pending in the present application. Claims 1 and 11 have been amended. Reconsideration of the pending claims is requested in view of the following.

### Interview Summary

Applicant thanks the Examiner for agreeing to an interview, which was held on December 1, 2009. No agreement was reached during the interview, but the following points were raised by Applicant: (a) the overall teachings of the applied prior art (Weigl and Suzuki) do not disclose or suggest the claimed feature of “dynamically changing, during transmission of messages, the transmission rate for at least one transmission time slot in such a way that a message provided for the at least one transmission time slot is transmitted repeatedly within the at least one transmission time slot”; (b) the motivation to make the combination of Weigl and Suzuki as asserted by the Examiner is contradicted by the actual disclosures of the applied references; and (c) the potential amendment to include “a fault tolerance” limitation in the claims.

### Rejection of Claims 1, 4, 5, 11, 12, and 14 under 35 U.S.C. § 103(a)

Claims 1, 4, 5, 11, 12, and 14 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent Application No. 2001/0021196 A1 (“Weigl”) in view of U.S. Patent Application No. 2002/0067763 (“Suzuki”). Claim 14 has been canceled. Applicant respectfully submits that the rejection should be withdrawn for at least the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory

statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended claim 1 recites, in relevant parts, “transmitting messages in transmission time slots at a preselected transmission rate, wherein each transmission time slot is uniquely allocated to a corresponding single message; and dynamically changing, during transmission of messages, the transmission rate for at least one transmission time slot in such a way that a corresponding single message provided for the at least one transmission time slot is transmitted repeatedly within the at least one transmission time slot.” Amended claim 11 recites substantially similar features as the above-recited features of claim 1. Although the Examiner contends in support of the rejection that paragraph [0007] of Weigl discloses that “a message provided for the transmission time slot is transmitted repeatedly within the transmission time slot,” this contention is clearly unsupported by the cited section of Weigl. Paragraph [0007] of Weigl merely indicates that “a first user, in a function as timer, . . . repeatedly transmits a reference message, which contains time information of the first user, via the bus at a specifiable time interval,” but there is simply no suggestion in Weigl that a single transmission time slot uniquely allocated to a corresponding single message accommodates repeated transmissions of the corresponding single message. To the extent Weigl discloses repetition of the reference message RN “at a specifiable time interval,” this disclosure does not suggest repetition of the reference message RN within a corresponding single transmission time window uniquely allocated to the single message; instead, the reference message RN is transmitted once (in time window ZFRN) for each base cycle BZ which includes multiple time windows. (See paragraph [0040] and Fig. 2 of Weigl). Accordingly, the disclosure of Weigl clearly indicates that repetition of the reference message RN over a specifiable time interval requires multiple transmission time windows, and Weigl fails to suggest that “a corresponding single message provided for the at least one transmission time slot is transmitted repeatedly within the at least one transmission time slot.”

Independent of the above, to the extent the Examiner contends that paragraph [0010] of Suzuki teaches “adjusting a transmission rate every time slot,” Applicant notes that the

cited paragraph merely indicates that “[i]n Annex C in ADSL . . . , a technique for adjusting a transmission rate every time slot so that ISDN and xDSL coexist is suggested,” and this disclosure (whether taken individually or in combination with the teachings of Weigl) simply does not suggest “changing . . . the transmission rate for at least one transmission time slot in such a way that a corresponding single message provided for the at least one transmission time slot is transmitted repeatedly within the at least one transmission time slot,” let alone that the change occurs “dynamically, . . . during transmission of messages.”

Independent of the above, to the extent the Examiner contends on page 3 of the Office Action that the motivation for combining the applied references “is to allow for and [sic] efficient system by allow [sic] multiple types to coexist,” Applicant respectfully submits that this contention simply doesn’t address the present claimed invention. In any case, the motivation to make the asserted combination of Weigl and Suzuki is contradicted by the overall teachings of the applied references. While Weigl discloses a shared bus system that “repeatedly transmits a reference message” to facilitate a shared bus “timer” function, Suzuki describes a completely unrelated method of stopping transmission on high noise intervals and resuming transmission on low noise intervals. (See, e.g., Abstract and paragraphs [0013]-[0015]). Given the completely different nature of the disclosures provided in Suzuki and Weigl, one of ordinary skill in the art would not be motivated to consider combining the teachings of Suzuki into the system of Weigl.

For at least the foregoing reasons, independent claims 1 and 11, as well as their dependent claims 4, 5 and 12, are allowable over Weigl in view of Suzuki.

#### **Rejection of Claims 2, 3, 6-10, and 13 under 35 U.S.C. § 103(a)**

Claims 2, 3, 8-10, 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weigl and Suzuki in further view of U.S. Patent No. 4,709,376 (“Kage”). Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weigl and Suzuki, in further view of U.S. Patent Application No. 2002/0126691 (“Strong”). Applicant respectfully submits that the rejections should be withdrawn for at least the following reasons.

Claims 2, 3, 6-10 and 13 ultimately depend from claim 1 or claim 11. As noted above in connection with claims 1 and 11, the overall teachings of Weigl and Suzuki do not render claims 1 and 11 obvious. In addition, Kage and Strong fail to remedy the deficiencies of Weigl and Suzuki as applied against parent claims 1 and 11. Accordingly, dependent claims 2, 3,

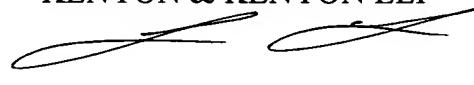
6-10 and 13 are allowable over the applied references. For at least the foregoing reasons, rejections of claims 2, 3, 6-10 and 13 should be withdrawn.

**CONCLUSION**

It is respectfully submitted that all pending claims of the present application are in allowable condition. Prompt reconsideration and allowance of the application are respectfully requested.

Respectfully Submitted,

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